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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/715,456	11/17/2000	Egor Ciotic		6894

7590 05/07/2003

Risto A Rinne Jr  
2173 East Francisco Blvd Suite E  
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[REDACTED] EXAMINER

FLYNN, AMANDA R

ART UNIT	PAPER NUMBER
3751	16

DATE MAILED: 05/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/715,456	CIOTIC, EGOR
	Examiner	Art Unit
	Amanda R. Flynn	3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 17 March 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-11 and 13-18 is/are pending in the application.
- 4a) Of the above claim(s) 11 and 15-18 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-10 and 13-14 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) 1-11 and 13-18 are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 17 November 2000 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Election/Restrictions*

1. Claims 11 and 15-18 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 3.

### *Drawings*

2. This application has been filed with informal drawings, which are acceptable for examination purposes only. Formal drawings will be required if the application is allowed.

### *Specification*

3. The abstract of the disclosure is objected to because it exceeds the required length of 50 to 150 words. Correction is required. See MPEP § 608.01(b).
4. The specification contains several references to a related application, serial number 09/685,411, filed by the same inventor. The specification should be amended to provide current and updated information, including the application's now abandoned status. 

### *Claim Rejections - 35 USC § 112*

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
6. Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear to the Examiner how the fan can be attached to the portable commode "distally with respect to a room wherein said portable frame structure is disposed." It appears

that if the structure is placed within a room, it is impossible for an element that is attached to the structure to be 'distal' from the room that surrounds it on all sides.

*Claim Rejections - 35 USC § 103*

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over DE 1,111,353 to Maier et al. in view of U.S. Patent Number 4,620,329 to Wix.

Maier et al. disclose a portable venting commode, comprising a portable frame structure, a toilet seat (4) attached to the frame, and means for venting vapors (best Figure 3). The means for venting vapors include a flexible hose (15), having a first end that is connected to the frame structure, and a second, opposite end that terminates outside of the toilet structure and is adapted to urge vapors away from the portable toilet, via an attached fan (10). As best seen in Figure 3, the toilet seat contains several holes and openings that cooperate with the fan, to urge vapors out of the toilet. Maier et al. do not specify that the vapors are disposed outside of the room in which the toilet resides.

Wix discloses a toilet (11), having means for venting toilet vapors. Wix states that a conduit hose leads vapors away from the toilet, and expels the vapors in a remote location, outside of the room in which the toilet resides (col. 3, lines 31-37).

It would have been obvious to one skilled in the art at the time the invention was made to have provided the portable venting commode disclosed by Maier et al., wherein the means for

venting vapors disposes the toilet vapors outside of the room in which the toilet resides, for redundancy and optimality in odor treatment and removal.

9. Claims 2-10 and 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maier et al. in view of Wix, and in view of U.S. Patent Number 4,848,841 to Holley.

Maier et al. in view of Wix teaches the previously described portable venting commode. Maier et al. disclose a portable frame structure but do not state that the frame structure is adapted for placement over a conventional fixed-mount flush-type toilet.

Holley discloses a portable commode, having a portable frame structure that is adapted for placement over a conventional flush-type toilet. Holley discloses that an open-ended chute (86) is attached to the toilet seat to guide waste into the conventional toilet bowl. As seen in the figures, the chute is conical in shape and cylindrical in section.

It would have been obvious to one skilled in the art to have provided the portable venting commode disclosed by Maier et al. in view of Wix, wherein the frame structure that has an open-ended chute and is adapted for placement over a conventional flush-type toilet, as taught by Holley, for immediate disposal and removal of waste from the portable frame.

Regarding claims 4-6 and 13-14, Maier et al. state that the fan is powered by a cable (19), but does not specify that a DC brushless motor be used. It would have been obvious to one skilled in the art at the time the invention was made to power the fan with a DC brushless motor that (along with the hose) can produce a positive or negative pressure, to achieve a desired CFM per minute and reduce sound.

***Response to Arguments***

10. Applicant's arguments with respect to claims 1-10 and 13-14 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent Number 5,606,747 to Dupont discloses an odor elimination system for a toilet bowl, wherein a DC motor operates the fan.

U.S. Patent Number 6,279,173 to Denzin et al. discloses a toilet ventilation device, wherein a DC brushless motor operates the fan.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amanda R. Flynn whose telephone number is 703-306-4056. The examiner can normally be reached on Monday-Thursday, 8:30 - 6:00 and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory L. Huson can be reached on 703-308-2580. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

*Amanda R. Flynn*  
Amanda R. Flynn  
Examiner  
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April 28, 2003



Gregory L. Huson  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700